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EXAMINER

CASTELLANO, STEPHEN J

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**BEFORE THE BOARD OF PATENT APPEALS
AND INTERFERENCES**

Application Number: 10/527,536
Filing Date: October 03, 2005
Appellant(s): BOBED, ISMAEL GRACIA

James E. Howard
For Appellant

EXAMINER'S ANSWER

This is in response to the appeal brief filed November 30, 2009 appealing from the Office action mailed August 7, 2009.

Art Unit: 3781

(1) Real Party in Interest

A statement identifying by name the real party in interest is contained in the brief.

(2) Related Appeals and Interferences

The examiner is not aware of any related appeals, interferences, or judicial proceedings which will directly affect or be directly affected by or have a bearing on the Board's decision in the pending appeal.

(3) Status of Claims

The statement of the status of claims contained in the brief is correct.

(4) Status of Amendments After Final

No amendment after final has been filed.

(5) Summary of Claimed Subject Matter

The summary of claimed subject matter contained in the brief is correct.

(6) Grounds of Rejection to be Reviewed on Appeal

The appellant's statement of the grounds of rejection to be reviewed on appeal is substantially correct. The changes are as follows: Issue A pertaining to an objection to claims 31-40 is not an appealable issuer. Issue A is petitionable. Issue B pertaining to a new matter rejection under 112, 1st paragraph has been withdrawn. Claim 40 is no longer rejected.

Art Unit: 3781

However, claim 40 is not allowable because of the objection of Issue A and claim 40 has not been placed into independent form.

NON-APPEALABLE ISSUE:

Appellant's brief presents arguments relating to objection to claims 31-40 because of minor informalities (**Issue A**). This issue relates to petitionable subject matter under 37 CFR 1.181 and not to appealable subject matter. See MPEP § 1002 and § 1201.

WITHDRAWN REJECTION:

The following grounds of rejection are not presented for review on appeal because they have been withdrawn by the examiner.

Issue B:

Claim 40 is rejected under 35 U.S.C. 112, first paragraph, as failing to comply with the written description requirement. The claim(s) contains subject matter which was not described in the specification in such a way as to reasonably convey to one skilled in the relevant art that the inventor(s), at the time the application was filed, had possession of the claimed invention.

GROUND OF REJECTION:

Issue C:

Claims 13, 21, 23, 25-26, 28 and 31-33 are rejected under 35 U.S.C. 103(a) as being unpatentable over Boved (EP 0789104) in view of Bertoldo (EP 0961374).

Art Unit: 3781

Issue D:

Claim 34 is rejected under 35 U.S.C. 103(a) as being unpatentable over Boved in view of Bertoldo as applied to claim 33 above, and further in view of Pliml, Jr. (6324731) (Pliml).

Issue E:

Claim 39 is rejected under 35 U.S.C. 103(a) as being unpatentable over Boved in view of Bertoldo as applied to claim 31 above, and further in view of Morel (4276806).

Issue F:

Claims 19 , 20 and 27 are rejected under 35 U.S.C. 103(a) as being unpatentable over Boved in view of Bertoldo as applied to claims 12 and 23 above, and further in view of Iguchi (4874276).

(7) Claims Appendix

The copy of the appealed claims contained in the Appendix to the brief is correct.

Art Unit: 3781

(8) Evidence Relied Upon

US Patents:

6,324,731	PLIML, Jr.	12-2001
4,874,276	IGUCHI	10-1989
4,276,806	MOREL	7-1981

Foreign References:

EP 0961374	BERTOLDO	12-1999
EP 0789104	BOVED	8-1997

(Both foreign references are English language documents)

Appellant Admission:

Admission by appellant on first page of specification, lines 31-34 with respect to Spanish patent 9600222 which EP 0789104 claims priority to the Spanish patent.

(9) Grounds of Rejection

The following ground(s) of rejection are applicable to the appealed claims:

Issue C:

Claims 13, 21, 23, 25-26, 28 and 31-33 are rejected under 35 U.S.C. 103(a) as being unpatentable over Boved (EP 0789104) in view of Bertoldo (EP 0961374).

Boved discloses a container for a washing machine, the container is a lye container insofar as such is admitted by applicant in statements made on the first page of the specification,

Art Unit: 3781

lines 31-34 with respect to Spanish patent 9600222 which EP 0789104 claims priority to the Spanish patent. The lye container has two halves and connecting means comprising pins (axial projections 7) and openings (cavities 8) at the mouths of their open base sections to produce a fixed connection, the openings are attached in radial extensions, the openings have a front and a rear section. Boved discloses the invention except for the axial through hole in the pin and the dowel that fits within the axial through hole. Bertoldo teaches a junction box having a body and lid, the body and lid have a series of connectors adjacent to the open mouths of the body and lid which include an opening in the body that receives a pin (pin or tubular element 50) and a pin in the lid, the pin having a through hole (inner diameter of tubular element 50) that receives a dowel (pin 60). It would have been obvious to replace the pin and opening of Boved with the pin and opening of Bertoldo which pin includes an axial through hole and a dowel to be received within the through hole which replacement would be motivated by (1) an indication within Bertoldo that a liquid-tight seal can be achieved to keep electrical components and connections from becoming wet to maintain component performance and reduce/eliminate short circuits, (2) an indication within Bertoldo that a guaranteed fastening force comparable to screw fastening keeps the closure secured to the body of the connection box to maintain component and connection integrity and prevent human tampering and (3) to provide the advantage of lower assembly time as compared to screw fasteners as the pin is inserted then the dowel is inserted which is considerably faster than a screw fastener wherein the threads need to be aligned, the threads are started by catching the first threads, then the fastener is rotated till the full fastening force is achieved..

Art Unit: 3781

Re claims 21 and 33 and the concentric protective projection limitation, Bertoldo teaches a recessed seat 70 which forms a protective projection (as the side of the seat projects axially upwardly from the bottom wall of the seat) which protects the dowel (pin 60) as the head 68 of the dowel (pin 60) is submerged in the recessed seat 70 as shown in Fig. 8. The protective projection (side wall of recessed seat 70) is generally circular and concentric with the axial through hole (inner diameter of tubular element 50). The protective projection is associated with the top opening of axial through hole (inner diameter of tubular element 50) which is the first end of the axial hole opposite the outer end of the pin (pin 50) for claim 21. While for claim 33, the protective projection is associated with the top opening of axial through hole (inner diameter of tubular element 50) which is the second side of the second radial extension (the second side is opposite to the first side from which the pin (pin 50) extends).

Issue D:

Claim 34 is rejected under 35 U.S.C. 103(a) as being unpatentable over Boved in view of Bertoldo as applied to claim 33 above, and further in view of Pliml, Jr. (6324731) (Pliml).

The combination discloses the invention except for the portion of the axial through hole shaped like a truncated cone. Pliml teaches an axial through hole wherein the insertion end is shaped like a truncated cone. It would have been obvious to modify the dowel insertion end of Bertoldo's axial through hole to be shaped like a truncated cone to allow the dowel to be aligned with the through hole by the concave surfaces of the truncated cone shape to allow easy and precise positioning of the dowel before the dowel is pushed through the through hole with force.

Art Unit: 3781

Issue E:

Claim 39 is rejected under 35 U.S.C. 103(a) as being unpatentable over Boved in view of Bertoldo as applied to claim 31 above, and further in view of Morel (4276806).

The combination discloses the invention except for the insertion stop. Morel teaches an insertion stop for a pin (see Fig. 2-4, the insertion stop is the ledge formed between recess 15 and opening 14), the stop prevents the pin from being backed-out of the opening once the lugs 11 are engaged within the recess 15. It would have been obvious to add the stop to prevent the pin from inadvertently being backed-out of opening to provide a secure connection even when the parts being connected are subjected to vibration and movement the connection will hold fast.

Issue F:

Claims 19 , 20 and 27 are rejected under 35 U.S.C. 103(a) as being unpatentable over Boved in view of Bertoldo as applied to claims 12 and 23 above, and further in view of Iguchi (4874276).

Re claims 19 and 27, the combination discloses the invention except for the fixing ribs. Iguchi teaches fixing ribs 13 on a dowel (see Fig. 13 of Iguchi). It would have been obvious to add the fixing ribs to provide a more secure hold for the dowel within the through hole of the pin to prevent the dowel from inadvertently being backed-out of the hole to provide a secure connection even when the parts being connected are subjected to vibration and movement the connection will hold fast.

Re claim 20, the combination discloses the invention except for the entry section of the axial opening of the pin having a diameter larger than that of the dowel. Figures 4-12 of Iguchi

Art Unit: 3781

teach an entry section of larger diameter than the dowel. It would have been obvious to modify the entry section of Bertoldo's pin axial hole to have a larger diameter than the dowel so that it is easier to align the dowel with the axial hole before applying an insertion force to insert the dowel within the pin axial hole.

(10) Response to Argument

Issue C:

Simply stated: The rejection is a modification which substitutes one type of fastener for another and seems to meet the teaching, suggestion, motivation (TSM) test because of the disclosure of the teaching reference (secondary reference), Bertoldo. Bertoldo teaches a fastener which can render the box liquid-tight (see col. 2, lines 36-38) and a fastening force guaranteed by this system is comparable to that of the traditional fastening systems by screws and, compared to them, has the advantage of a considerably lower assembly time (see col. 4, lines 5-8).

Appellant states that the Bertoldo connection box merely encloses electrical wiring. Examiner would view the word "merely" as an inappropriate characterization as an electrical connection box closed with a cover for a liquid-tight connection and with guaranteed fastening force would be significant to the reliable performance and safety of an electrical system as liquid intrusion and human tampering need to be prevented. Appellant further contends that the securing forces of Bertoldo are not significant and not comparable to that of a washing machine lye container. However, this contention is not supported by the evidence as Bertoldo clearly indicates that fastening forces are guaranteed and comparable to screws. Appellant's contention that securing forces of Bertoldo are lower doesn't correlate to any claim limitation or anything in

Art Unit: 3781

the written disclosure that would claim/teach a specific securing force, for example, a quantitative limitation specifying force of closure.

Appellant has indicated that the combination has no motivation. The fastener replacement would be motivated by (1) an indication within Bertoldo that a liquid-tight seal can be achieved to keep electrical components and connections from becoming wet to maintain component performance and reduce/eliminate short circuits, (2) an indication within Bertoldo that a guaranteed fastening force comparable to screw fastening keeps the closure secured to the body of the connection box to maintain component and connection integrity and prevent human tampering and (3) to provide the advantage of lower assembly time as compared to screw fasteners as the pin is inserted then the dowel is inserted which is considerably faster than a screw fastener wherein the threads need first to be aligned, the threads are started by catching the first threads, then the fastener is rotated until the full fastening force is achieved..

Appellant has accurately described Fig. 4 in his discussion of the concentric protective protrusion (sidewall of seat 70 which projects upwardly from the bottom wall of the seat 70) of claim 21. Figure 4 is described in col. 3, lines 50-52 as “mounted ... but not yet locked” position of the dowel 60/68. As shown in Fig. 4, portions of the shaft (the part under the head) of the dowel (pin 60) are protected by the concentric protective protrusion. This is all that is required of claim 21. Of course, appellant could also consider the Fig. 5 configuration (mounted and locked position of dowel 60/68) wherein the head 68 of the dowel (pin 60) is protected by the concentric protective protrusion.

Art Unit: 3781

Issues D, E and F:

There are no further arguments advanced under these headings.

(11) Related Proceeding(s) Appendix

No decision rendered by a court or the Board is identified by the examiner in the Related Appeals and Interferences section of this examiner's answer.

For the above reasons, it is believed that the rejections should be sustained.

Respectfully submitted,

/Stephen Castellano/

Primary Examiner

Conferees:

/Anthony Stashick/
Supervisory Patent Examiner, Art Unit 3781

/Tom Hughes/
TQAS, TC 3700